



*Fresh produce from our families to yours.*

January 20, 2003

Country of Origin Labeling Program  
Agricultural Marketing Service, USDA  
STOP 0249, Room 2092-S  
1400 Independence Avenue, SW  
Washington, DC 20250-0249

Attn: Desk Officer  
Office of Management and Budget  
New Executive Office Building  
725 17<sup>th</sup> Street, NW - Room 725  
Washington, DC 20503

Clearance Officer  
USDA-OCIO  
Jamie L. Whitten Building  
STOP 7602, Room 4404  
1400 Independence Avenue, SW.  
Washington, DC 20250-7602

Re: Country of Origin Labeling Recordkeeping System  
Docket LS-02-16

Western Growers is an agricultural trade association representing growers, packers, and shippers of fresh fruits, vegetables, and nuts in the states of California and Arizona.

Western Growers submits its comments on Docket No. LS-02-16, as it relates to fresh fruits, vegetables, and nuts. It is the position of Western Growers that there is currently in place sufficient documentation throughout the distribution system to permit a proper and verifiable audit. PACA regulatory provisions now in place, or those of individual states, should be sufficient for the purpose of any audit that would become necessary to determine point of origin.

Western Growers comments relate only to that of the fresh produce industry and recognizes that other agricultural commodities may be unique in the way records are maintained for the purpose of determining points of origin.

- (1) Whether the recordkeeping is necessary for the proper operation of this voluntary program, including whether the information would have practical utility

The USDA Agricultural Marketing Service should not impose any recordkeeping regime that places an undue burden on the grower, shipper, wholesaler, or retailer. Current practices, for the most part, provide sufficient and readily available documentation to enable the appropriate regulatory agency to perform a trace back operation resulting from any investigation.

Since the same produce carton may be used in either domestic or international shipments, most, if not all, fresh produce cartons are printed or stamped with country of origin labeling such as: "Produce of USA", or "Grown in USA". Further, many state regulations require at a minimum, the name of the responsible party, address, and commodity description to be printed on the shipping carton, including the unique characteristics of a "label" on the master-shipping carton. The same holds true for any prepackaged commodity, such as salad blends, bagged potatoes, or carrots, etc. This type of labeling, currently printed on the shipping carton, should provide information sufficient for the retailer to properly identify and label any bulk or individual consumer pack displays in the retail store as produce grown in the United States or any other commodity. Insofar as imported produce is concerned, current law requires that the shipping carton for bulk commodities, and/or the consumer packages be labeled with the country of origin. Therefore, retailers, even down to the individual store level, will have adequate information in their possession to enable the proper retail-consumer labeling.

Additionally, a bill of lading accompanies all fresh produce shipments, which provides specific details such as commodity description, quantity, point of origin, and destination. A commercial invoice from the seller forwarded to the purchaser also provides specific detailed information in addition to the terms of sale. These two documents contain the thorough information necessary for an audit verification system from point of final sale back to the actual grower shipper.

With a nexus from the individual retail outlet to the wholesale distribution point to the grower/shipper, USDA AMS should not require additional recordkeeping. It is not reasonable to expect each retail store to maintain all the purchasing and shipping documents from point of origin to ultimate sale. Documentation such as invoices, purchase orders, bills of lading, and lot numbers, etc., maintained at the retailers headquarter location can easily form an audit trail identifying and connecting individual commodities back to its origin source. These documents are most likely available through the retailers' main distribution center and/or buying office. It would be equally unreasonable to require the grower shipper to maintain records that go beyond the standard bill of lading, commercial invoice and/or grower lot record that would currently be required under the Perishable Agricultural Commodities Act.

2) The accuracy of USDA's estimate of the burden of the recordkeeping requirements, including the validity of the methodology and assumptions used

Initially, the estimation of both the salary and hours stated by the USDA appear overstated. Further, since most of the documenting effort is already being performed by the various entities, the minor additional recordkeeping process should have a minimal impact on cost. Therefore, level of recordkeeping that may be required combined with existing systems invalidates the overstated projection of \$1,967,750,00. As previously indicated much of the information that would be required to verify any PACA audit is already in place. While some coordinating of recordkeeping may be necessary it certainly does not require the number of hours currently projected.

Presently grower, shipper, and packer records meet all the requirements of the COOL. Requiring the individual retail stores to maintain a paper trail going back to point of production would be completely unreasonable. Documentation describing the produce received can be connected to the individual store through the retail distribution warehouse or produce-buying office. In turn the distribution warehouse or buying office should have shipping/purchasing documents that identify the grower/shipper or importer, thereby allowing for a complete and verifiable audit.

3) Ways to enhance the quality, utility, and clarity of the records to be maintained

The system currently in place will allow the retailer to fulfill its obligation in properly providing consumer labeling of the produce item at retail level. Any requirement for records, beyond the necessity to incorporate documentation through the various parties in the distribution chain, would be unreasonable and provide little or no benefit.

4) Ways to minimize the burden of the recordkeeping on those who are to maintain and/or make the records available, including the use of appropriate automated, electronic, mechanical, or other technological recordkeeping techniques or other forms of information technology.

USDA-AMS must be flexible and build on existing systems in adopting a recordkeeping format. Virtually all documentation necessary to identify source of origin is currently in place at the various levels of the distribution chain. USDA-AMS should not require the grower/shipper, wholesaler/distributor, and/or retailer to develop a new system of recordkeeping, if as previously stated sufficient documentation already exists. Each point in the distribution chain should not be required to establish a new record trail if the current system, starting with the final

receiver (retailer) allows one to engage each segment of the record trail to back to the point of origin.

USDA-AMS would be requiring participants to maintain a costly, burdensome, and unnecessary program if it were to require documentation beyond that already available in the fresh produce industry.

While Western Growers strongly supports Country of Origin Labeling we firmly believe that most, if not all, the necessary documentation is in place to insure compliance. Duplicating recordkeeping will not result in a more efficient audit verification system. Existing regulations administered by the PACA or U.S. labeling requirements on imported fresh produce should be sufficient to carry out any audit needed to verify country of origin.

Respectfully submitted,

  
MATTHEW M. MC INERNEY  
Executive Vice President